

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing

(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/EP2004/050197

International filing date (day/month/year)
24.02.2004

Priority date (day/month/year)
28.03.2003

International Patent Classification (IPC) or both national classification and IPC
H04Q7/38

Applicant
MOTOROLA INC.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

10/541332
International application No.
PCT/EP2004/050197

JC20 Rec'd PCT/PTO 29 JUN 2005

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2004/050197

Box No. II Priority

1. ☒ The following document has not been furnished:

- ☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).
- ☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-18
	No: Claims	--
Inventive step (IS)	Yes: Claims	--
	No: Claims	1-18
Industrial applicability (IA)	Yes: Claims	1-18
	No: Claims	--

2. Citations and explanations

see separate sheet

Basis of the report:

Description, pages:

1-28 as originally filed

Claims, No.:

1-18 as originally filed

Drawings, sheets:

1/9-9/9 as originally filed

A. Citations and explanations made in respect of paragraph V:

1. Reference is made to the following documents:

D1 = US-A-5 982 757

D2 = EP-A-0 687 116

2. The present application does not meet the requirements of Article 33(3) PCT, because the subject-matter of **claim 1** does not involve an inventive step.

Document **D1** discloses, in accordance with some of the features of **claim 1**, a wireless communication system (see D1: column 2, lines 42 to 45; column 3, lines 3 to 27; figure 1) which provides a number of communication resources (see D1: column 3, line 67 to column 4, line 4) for a plurality of mobile stations (see D1: figure 1: "113", "114"), wherein the wireless communication system comprises a number of communication paths (see D1: figure 1: "119") for routing a communication initiated by one of said plurality of mobile stations to a destination node (see D1: column 2, lines 61 to 65; figure 1: "111").

Document **D1** furthermore discloses that in case of control traffic overload, the mobile stations will not attempt to register simultaneously (see D1: column 1, lines 59 to 61).

The fact that a call gapping process is performed in the mobile station is not

explicitly disclosed in document **D1**.

The technical problem can thus be formulated as: "what to do in case of call traffic overload".

The skilled person, wishing to find a solution for the above-mentioned problem, would consult the prior art in the field of call handling during overload conditions and come across the document **D2**, which discloses the principle of "call gapping" (see **D2**: page 4, lines 1 to 16). The skilled person would apply this principle to the system of document **D1**, i.e. to perform a call gapping process in the mobile station, and thus arrive, without the use of inventive skill, at the wireless communication system according to the subject-matter of **claim 1**.

Claim 1 does therefore not involve an inventive step, see Article 33(3) PCT.

3. The comments made in paragraph 2 regarding **claim 1** also apply to independent **claims 8, 13 and 18**, as said claims essentially correspond with **claim 1** in terms of claims relating to "a communication unit", "a method of congestion relief" and "a storage medium", respectively.

Regarding independent **claim 8**, it is noted that document **D1** discloses a communication unit adapted to facilitate the process (see **D1**: column 3, lines 30 to 33; figure 1: "111", "113").

Regarding independent **claim 18**, it is noted that document **D1** discloses that the method may be implemented in software and stored in or on any computer-readable media (see **D1**: column 4, lines 48 to 53).

Independent **claims 8, 13 and 18** do therefore not involve an inventive step, see Article 33(3) PCT.

4. The additional features of dependent **claims 2 to 7, 9 to 12 and 14 to 17** do not add anything of inventive significance, see Article 33(3) PCT, to the claims to which they are appended, as the additional features introduced by said dependent claims are disclosed in, or directly derivable from, document **D1** (for **claims 5 and**

16: see column 4, lines 16 to 22; for **claims 7 and 12:** see D1: column 3, lines 3 to 27; for **claims 9 and 11:** see D1: column 3, lines 30 to 33; figure 1: "111", "113") or document **D2** (for **claims 2, 4, 6, 15 and 17:** see D2: page 4, lines 23 to 39; for **claims 3 and 14:** see D2: page 2, lines 1 to 11; for **claim 10:** see D2: page 4, lines 9 to 11), or refer only to minor implementing details falling within the general knowledge of a person skilled in the art of call handling during overload conditions.

As a consequence, said dependent claims do not meet the requirements of Article 33(3) PCT.

B. Further remarks made in respect of the present application:

1. In order to meet the requirements of Rule 5.1 (a) (ii) PCT, the documents **D1 and D2**, which represent a relevant state of the art with regard to the present application, should be identified in the opening part of the description and the relevant background art disclosed therein should be briefly discussed.
2. The opening part of the description should be brought into **conformity** with the wording of any new or amended independent claim(s), see Rule 5.1 (a)(iii) PCT.
3. In order to meet the requirements of Rule 6.3(b) PCT, any independent claim should be correctly cast in the **two-part form**, with those features which in combination are part of the nearest prior art (i.e. document **D1**) being placed in the preamble.
4. The attention of the applicant is drawn to the fact that the application may **not** be amended in such a way that it contains subject-matter which extends **beyond** the content of the application as filed, see Article 43 (2)(b) PCT.

In his letter of reply, the applicant should indicate the parts of the originally filed application serving as a basis for subject-matter newly introduced into the claims.

5. The applicant is requested to file amendmends by way of **replacement pages** in

**WRITTEN OPINION OF THE
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AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/EP2004/050197

accordance with Rule 66.8 PCT.